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Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions

New international humanitarian order

Report of the Secretary-General*

Summary

The present report has been prepared pursuant to General Assembly resolution 57/184. It addresses the question of the promotion of a new international humanitarian order to improve a comprehensive international framework which takes fully into account existing instruments relating to humanitarian questions, as well as the need for addressing those aspects not yet adequately covered. This issue was first taken up by the General Assembly during its thirty-sixth session.

The report highlights key humanitarian issues, such as the right to humanitarian assistance and to humanitarian access, and calls for stronger links between emergency assistance and development aid and between humanitarian issues and human rights. The report also calls for the development of an agenda for humanitarian action and for the identification of practical measures by which such an agenda might be developed and implemented with the assistance of Governments and non-governmental organizations.

* The report was delayed for technical reasons.

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1. The present report is submitted pursuant to paragraph 9 of General Assembly resolution 57/184 of 18 December 2002, relating to the promotion of a new international humanitarian order. In that resolution the Assembly expressed its appreciation for the continuing efforts of the Secretary-General in the humanitarian field and urged Governments "to assist him in promoting a new international humanitarian order corresponding to new realities and challenges, including the development of an agenda for humanitarian action" (para. 1). It also called upon Governments "to provide expertise and the necessary means to identify the building blocks of such an order and agenda, plan the architecture and undertake the required supplementary activities" (para. 2).

2. In that context, it is worthwhile to recall that when, at its thirty-sixth session, the General Assembly adopted its first resolution (resolution 36/136 of 14 December 1981) relating to the proposal for the promotion of a new international humanitarian order, it recognized, inter alia, "the importance of further improving a comprehensive international framework which takes fully into account existing instruments relating to humanitarian questions as well as the need for addressing those aspects which are not yet adequately covered" (second preambular para.). Regrettably, now more than two decades later, that recognition is even more valid if one bears in mind the developments around the world in recent years.

3. It is encouraging, however, that the General Assembly has unanimously adopted 15 resolutions regarding the new international humanitarian order. Based on those resolutions, as well as the relevant reports of the Secretary-General, a number of suggestions and recommendations have gone through the process of implementation.

4. As for the proposed agenda for humanitarian action, it should include not only the new and emerging humanitarian problems but also the existing ones which are inadequately addressed in terms of international legislation and practices of States as well as non-State actors. In this context, the Independent Bureau for Humanitarian Issues, which has helped initiate and pursue the concept of the proposed agenda, will be involved in developing it further and will assist in the implementation process. The subject has aroused considerable interest in the non-governmental sector, which will undoubtedly have a major role to play not only in the identification of the constituent elements of the proposed agenda but also in the implementation of measures required to solve the problems identified.

5. Currently, armed conflicts between and within States are a major source of humanitarian problems. In this context, the proposed agenda can be an effective tool for preparedness and prevention. Taking into account the experience gained around the world in recent years, it is a matter of fundamental importance that in addition to supporting peacemaking, peacekeeping and peace-building efforts, Member States also support intergovernmental and non-governmental organizations not only in providing humanitarian assistance but also in the prevention of armed conflicts through the identification and removal of the root causes, in line with Article 1 of the Charter of the United Nations.

6. As for humanitarian efforts during and after armed conflicts, there are two issues which deserve special attention: the establishment of a right to humanitarian assistance and the establishment of a right to safe and speedy access for humanitarian agencies and workers to people afflicted by conflict and other life-endangering circumstances. Just as relief should be provided without distinction as

to race, religion, nationality or political affiliation, neither should access to the needy be subject to political or military considerations. It is important to point out in this connection that currently at least 10 million needy people in some 20 countries are considered inaccessible for humanitarian agencies, as pointed out in a recent report on strengthening the coordination of emergency humanitarian assistance of the United Nations (A/59/93-E/2004/74).

7. Finally, it is important to point out that due to the current situations of armed conflict, much more international aid is being provided as emergency assistance than for eliminating the root causes of conflicts. Consequently, there is a need to strengthen the nexus between emergency assistance and development aid at the same time as the nexus between human rights and humanitarian issues. In the overall context of the preparation and implementation of an agenda for humanitarian action, the Secretary-General calls on Member States to make available at the earliest their views on the subject and to share their perceptions and plans regarding the humanitarian challenges they face at the national, regional and international levels.

8. In conclusion, the Secretary-General wishes to reiterate the importance of adherence to human rights and international humanitarian and refugee law. As for practical measures to be taken in order to develop the agenda for humanitarian action and ensure its implementation, it would be useful to constitute an expert group to deliberate and make recommendations which can serve to further strengthen the humanitarian aspect of the Millennium Development Goals to be reviewed next year by Member States.

Recommendations

9. On the basis of lessons learned through experience gained in various parts of the world, the General Assembly may wish, inter alia, to:

(a) Urge Governments to share, at the earliest, their views, based on their experience, regarding the constituent elements of an agenda for humanitarian action;

(b) Call upon Member States to make available to the Secretary-General the expertise and the means for the development and eventual implementation of the proposed agenda;

(c) Recommend the identification of measures to strengthen the nexus between human rights and humanitarian issues as well as between emergency assistance and development aid;

(d) Strengthen the increasingly important role of non-governmental organizations and the private sector in the humanitarian field.

Annex

Replies received from Governments and from the Independent Bureau for Humanitarian Issues

Bosnia and Herzegovina

1. In the context of General Assembly resolution A/57/184 of 18 December 2002, the Government of Bosnia and Herzegovina is pleased to state that considerable progress has been made in addressing the humanitarian challenges faced by the country in the aftermath of armed conflict, which ravaged all parts of it for several years. In addition to the return and rehabilitation of refugees, considerable efforts have been made to normalize the life of internally displaced persons.

2. On the basis of its long experience, the Government wishes to re-emphasize the importance of basic guidelines and principles which should be followed in the context of humanitarian assistance in armed conflicts. This is a matter of fundamental importance in view of the current armed conflicts between and within States around the world and the increasing number of victims. In this connection, the attention of the United Nations Member States is drawn to the basic tenets contained in the contribution of Bosnia and Herzegovina in an earlier report of the Secretary-General relating to the promotion of a new international humanitarian order (A/53/486).

3. It is planned to request the issuance of a United Nations document containing those tenets as a step forward towards the adoption of a declaration relating to humanitarian action during and after an armed conflict. In order to facilitate consideration of the proposed declaration by Member States, it is also planned, in collaboration with the Independent Bureau for Humanitarian Issues, to publish a detailed commentary on each of the tenets contained in the above-mentioned report of the Secretary-General.

4. The Government of Bosnia and Herzegovina also looks forward to participating in the preparation of the agenda for humanitarian action mentioned in the last resolution adopted on the subject of a new international humanitarian order and to providing expertise on the basis of its experience in recent years.

Jordan

1. Ever since the introduction of the item relating to the promotion of a new international humanitarian order in the agenda of the General Assembly, the Government of the Hashemite Kingdom of Jordan has remained consistent in its support of the concept, more relevant than ever before to the future welfare of mankind.

2. In this overall context, Jordan has also remained tenacious in its efforts to identify humanitarian problems facing the country and the region and in seeking solutions to them. The geography of the country does not make this an easy task, but the steady socio-economic progress being made by the country continues to be a supporting factor in its endeavours relating to humanitarian challenges.

3. One of the major challenges in the region continues to be the problem of refugees. It is sad and discouraging to note that hundreds of thousands of persons have spent most of their lives in refugee camps. Experience around the world regarding the global refugee problem clearly indicates that the collective efforts of the international community through the United Nations should not be limited to providing relief and temporary assistance but rather should include seeking permanent solutions to the problem. In fact, it would be useful and timely to review the overall question of displacement of persons, whether internal or external, voluntary or involuntary, so that the response of the international community and the search for solutions can be adjusted to the contemporary world situation.

4. Armed conflicts between and within States have made the need for durable peace more urgent. It is important to recall in this connection that in one of its earlier contributions to the reports of the Secretary-General, the Jordanian Government pointed out on the basis of the experience of various countries around the world that peace is durable not when it is achieved through negotiations but, above all, when it is built and consolidated at the grass-roots level. At the same time, Jordan recognized that the increasing attention being paid to peacemaking and peace-building in addition to the traditional peacekeeping role of the United Nations was a positive development. In view of the fact that armed conflicts continue to ravage many parts of the planet, it is important that an effective early warning system be established for the identification of root causes of conflicts and for taking timely action to prevent them. In this regard, the establishment of the International Criminal Court, as an effective instrument intended to prevent inhumane and criminal activities as well as to put an end to impunity, is to be welcomed.

5. It is a matter of utmost importance that the idea launched by the General Assembly in its resolution A/57/184 concerning the development of an agenda for humanitarian action be actively pursued by Member States. In this context, it is interesting to note that initiatives are already being taken by non-governmental bodies such as the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies. There is no doubt that emerging humanitarian problems should be promptly addressed. It is important, therefore, that a working group of experts be formed to identify the constituent elements of the proposed agenda and to suggest solutions to the humanitarian problems covered by it.

6. Taking into account the persistent humanitarian challenges facing the world since the events of 11 September 2001, it would be useful to undertake a survey of specific humanitarian issues, as was done in 1986 in conjunction with the Independent Commission on International Humanitarian Issues, whose results were made available by the Secretary-General in his report relating to the new international humanitarian order (A/41/472). The successor body of the Independent Commission, the Independent Bureau for Humanitarian Issues, which has been specifically mentioned in a number of the relevant General Assembly resolutions, should be invited to collaborate for the identification of humanitarian issues requiring immediate attention and for research to seek appropriate solutions.

Sudan

1. The Sudanese Government has supported the concept of new international humanitarian order ever since it was introduced to the General Assembly and suggested at the outset that it should be supported by all States because of the increasing gravity of the crises threatening the existence and future of mankind, and that in creating the new humanitarian order, principles common to all States should be elaborated so as to encompass the pressing needs of humanity at large (see A/40/348).

2. As is well known, the Sudan, like many other countries in all parts of the world, is currently facing a number of humanitarian problems. In order to solve them, the Sudan has taken action in line with one of the recommendations made by the Independent Commission on International Humanitarian Issues, as reiterated by the Independent Bureau for Humanitarian Issues in the last report of the Secretary-General on the subject (A/57/583), and established a Ministry of Humanitarian Affairs. It would be most helpful if the Ministry were to receive technical and financial support from the international community in order not only to solve the current problems but also to take measures to prevent the recurrence of human tragedies.

Independent Bureau for Humanitarian Issues

1. In addition to its normal duties relating to the dissemination and implementation of the recommendations made by the Independent Commission on International Humanitarian Issues, national capacity-building and related action-oriented research, the Independent Bureau for Humanitarian Issues (IBHI) has been involved in the promotion of the concept of a new international humanitarian order. In this context, IBHI has already initiated preliminary work regarding the development of an agenda for humanitarian action, as suggested by the General Assembly in its resolution 57/184 of 18 December 2002. IBHI is also trying to promote the implementation of two specific recommendations made by the Independent Commission, reiterated in the last report of the Secretary-General (A/57/583), i.e., the establishment by Governments of a ministry of humanitarian affairs in order to ensure effective coordination and, parallel to that, the establishment of independent national commissions for humanitarian issues for the identification of problems and possible solutions before there is an excessive deterioration of the overall situation in a country.

2. It is encouraging to note that in addition to Governments, a number of non-governmental organizations have begun to show active interest in the relevant ideas launched originally by IBHI. For example, at its last world conference, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies initiated deliberations regarding an agenda for humanitarian action and identified some humanitarian problems which need the attention of the international community. Likewise, the World Association of Non-Governmental Organizations has adopted resolutions at its annual conference, attended by NGOs from all parts of the world, concerning the promotion of a new international humanitarian order.

3. It is deeply regrettable that in recent years there have been so many armed conflicts between and within States and that the number of victims during the last decade exceeded by far the number of persons who died during the Second World War. At the same time, it is important to remember what the Secretary-General recently stressed in a statement to the Security Council: "In the entire history of the United Nations, just over $30 billion has been spent on our peacekeeping operations. That is just one thirtieth of the amount that was spent last year alone on global military expenditures" (see S/PV.5041). More often than is generally recognized, armed conflicts begin, or become more sanguine, due to unresolved or aggravating humanitarian problems. One of the key elements in building durable peace in war-torn societies is the identification of humanitarian problems faced by the affected populations and the rapid promotion of solutions to those problems. At the same time, in the absence of armed conflicts and before concerned Governments decide to reduce their defence budgets, it would be worthwhile to explore the role that armed forces can play in the field of socio-economic development. IBHI plans to do action-oriented research and prepare selected case studies on the subject.

4. In the context of armed conflicts and related humanitarian crises, it is indeed important to strengthen the nexus between emergency assistance and development aid. IBHI has already initiated action-oriented research on the matter and is planning to do the same for the nexus between human rights and humanitarian issues.

5. In its effort to identify the constituent elements of an agenda for humanitarian action, IBHI is also initiating relevant projects regarding phenomena such as mass expulsions, lack of respect for rights of minorities and problems of internal and external displacement of persons, including refugees, illegal migrants, victims of human trafficking, etc.

6. Another project initiated by IBHI relates to the dissemination of basic information concerning the human rights of specific groups so that ordinary people, and particularly the victims, can understand and claim their rights. To begin with, since hundreds of millions of victims do not understand any of the official United Nations languages, it is important to make available in local and/or national languages the relevant documents on matters such as the rights of minorities, women, children and older persons.

7. Finally, in a recent report regarding the promotion of religious and cultural understanding, harmony and cooperation (A/59/201, 3 August 2004), it has been aptly pointed out that "a particularly important dimension of the dialogue among civilizations is inter-religious dialogue, which implies dialogue both among religions and within a single religion ... Many inter-religious conflicts are fuelled largely by a search for identity expressed by a retreat into a particular religion or spiritual tradition to the exclusion of all others" (para. 33). Earlier, in its resolution 57/337 of 3 July 2003, the General Assembly recognized that continued inter-religious dialogues and promotion of religious harmony are contributions to the prevention of armed conflicts. In order to promote inter-religious dialogue and thus contribute towards the elimination of some of the root causes of certain conflicts, IBHI proposes to identify and disseminate the points of convergence rather than divergence between religions and to encourage intensive research into possibilities for cooperation between believers of different faiths.